



In re: Satoshi Watanabe

Serial No.: 10/052,687

Filed: January 18, 2002

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REMARKS

Claims 1-16 are pending in the application. Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being obvious. No amendments to the claims are made herein.

35 U.S.C. § 103(a) Rejection

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Inoue et al. (U.S. Patent No. 6,406,830). Applicants respectfully traverse this rejection.

The present application was filed on January 18, 2002 and claims priority to Japanese Patent Application No. 2001-012947, filed on January 22, 2001. Inoue et al. has a U.S. filing date of May 7, 2001, which is after the January 22, 2001 priority date of the present application. As such, Inoue et al. does not constitute prior art from which a 35 U.S.C. § 103(a) obviousness rejection may be upheld. As stated in the M.P.E.P.:

The effective date of a domestic patent when used as a reference is not the foreign filing date to which the application for patent may have been entitled under 35 U.S.C. 119(a) during examination. *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966).

Therefore, the date to be overcome under 37 C.F.R. 1.131 is the effective U.S. filing date, not the foreign priority date. *See, M.P.E.P.* § 715.

Inoue et al. does not qualify as a reference upon which the 35 U.S.C. § 103(a) rejection may be made because its U.S. filing date falls after the priority date of the application.

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CONCLUSION

The concerns of the Examiner addressed in full, Applicants respectfully request withdrawal of the outstanding rejections and the issuance of a Notice of Allowance forthwith. The Examiner is encouraged to direct any questions regarding the foregoing to the undersigned, who may be reached at (919) 854-1400.

Respectfully submitted,

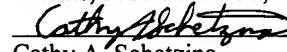


Devin R. Jensen
Registration No. 44,805

Customer No. 20792
Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Cathy A. Schetzina